

Appln No. 10/814,623
Reply to Office Action of January 26, 2005

REMARKS/ARGUMENTS

The Office Action dated January 26, 2005, has been reviewed and the comments carefully considered.

In the Office Action, various issues and questions are raised concerning the description of the variety. By the amendments in the accompanying Substitute Specification, Applicant has made a bona fide effort to address all issues and questions.

Applicant notes that certain documents previously filed with an Information Disclosure Statement dated August 12, 2004, were apparently not received at the U.S. Patent and Trademark Office. Applicant submits herewith a copy of this Information Disclosure Statement with the missing documents.

In view of the foregoing amendment and response, it is believed that the application is in condition for allowance and, accordingly, reconsideration and allowance is earnestly solicited.

If any questions remain regarding the allowability of the application, Applicant would appreciate if the Examiner would advise the undersigned by telephone.

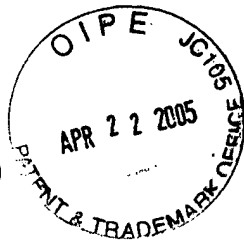
The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By Cynthia A. Bonner
Cynthia A. Bonner
Reg. No. 44,548
626/795-9900

CAB/tt

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VERBENA PLANT NAMED 'SUNMARIVANI'

Botanical/~~commercial~~ denomination:

Verbena hybrida~~Verbena Plant~~

Varietal denomination: ~~ex.~~ Sunmarivani

5 BACKGROUND OF THE VARIETY

The new variety of Verbena plant according to this invention originated as a mutation from of *Verbena hybrida* 'Sunmariba'.

10 The Verbena is a very popular plant and is used for flower bedding and potting in the summer season. There are only a few varieties of the Verbena plant that have abundant branching, many yellowish white flowers in a spike, and a high resistance to heat, rain, and disease. ~~Accordingly, this invention was mutant aimed at obtaining a new Verbena variety having~~ The new variety, 'Sunmarivani' was discovered as a mutant and has many of those features including a decumbent growth habit, much branching, many flowers in a spike, high tolerance to heat and
15 rain, and resistance to disease and pests.

Progress

~~—— The new variety of Verbena plant according to this invention originated as a mutation from *Verbena hybrida* 'Sunmariba' (U.S. Plant Pat. No. 10,801).~~

20 The new variety *Verbena hybrida* 'Sunmarivani' was discovered as a spontaneous branch mutation of the *Verbena hybrida* 'Sunmariba' (U.S. Plant Patent No. 10,801) in May 1997 in a field of a nursery at Hakushu-cho, Kitakoma-gun, Yamanashi-ken, Japan.

25 The mutant Verbena plant was propagated by cutting and was grown in pot and bedding from May to November 1997 at Hakushu-cho, Kitakoma-gun, Yamanashi-ken, Japan.

The botanical characteristics of the plant were examined, using similar varieties 'Sunmariba' and 'Sunmaririhō' (unpatented). ~~As a result, it~~ was concluded that this new Verbena variety is distinguishable from other varieties, whose

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existence is known to us, and is uniform and stable in its characteristics. ~~The, and~~
~~this~~ new variety of Verbena plant was named 'Sunmarivani'.

In the following description, the color-coding is in accordance with the
Horticultural Colour Chart of The Royal Horticultural Society, London, England
(R.H.S. ~~Colour Chart~~).

SUMMARY OF THE VARIETY

This new variety is unlike any ~~commercially available~~ Verbena known to
use commercially available as evidenced by the following unique combination[[s]] of
characteristics.

1. Decumbent growth habit with abundant branching.
2. Plentiful number of flowers in a spike, having a great profusion of
blooms with the entire plant remaining in bloom for a considerable period of time.
3. Long flowering duration.
4. The petal color is yellowish white (near R.H.S. 155B).
5. The plant has a high resistance to rain, heat, disease and pests.

The new variety 'Sunmarivani' differs from the similar variety 'Sunmariba' in
the following points.

1. The spreading of plants of 'Sunmarivani' is larger than that of
'Sunmariba'.
2. 'Sunmarivani' does not have [[A]]anthocyanin pigmentation on stems
as is found in contrast to 'Sunmariba' ~~that has~~.
3. The petal color of 'Sunmarivani' is yellowish white (near R.H.S. 155B),
while that. ~~That~~ of 'Sunmariba' is vivid purple (near R.H.S. N81A).
4. The number of flowers per spike of 'Sunmarivani' is more than that of
'Sunmariba'.

The new variety 'Sunmarivani' differs from the similar variety 'Sunmaririho' in
the following points.

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1. The stem thickness of 'Sunmarivani' is thicker than that of 'Sunmaririho'.
2. The leaf margin of 'Sunmarivani' is more sharply serrated than t. That of 'Sunmaririho' ~~is serrated~~.
3. The flower height of 'Sunmarivani' is shorter than that of 'Sunmaririho'.
4. The peduncle length of 'Sunmarivani' is longer than that of 'Sunmaririho'.

This new variety of Verbena Plant 'Sunmarivani' was asexually reproduced by the use of cuttings from May to November 1998 at Yokaichi-shi, Shiga-ken, Japan, and homogeneity and stability thereof were confirmed. The instant plant retains its distinctive characteristics and reproduces true to type in successive generations.

BRIEF DESCRIPTION OF THE PHOTOGRAPHS

The depicted plants had been reproduced by the use of cuttings and were photographed during July 2002 while growing outdoors at an age of approximately 6 months at Yokaichi-shi, Shiga-ken, Japan.

FIG. 1 illustrates a typical plant of the new variety of Verbena plant 'Sunmarivani' growing in a hanging pot.

FIG. 2 illustrates a close view of typical foliage and blossoms of the new variety of Verbena Plant 'Sunmarivani'.

DESCRIPTION OF THE VARIETY

The botanical characteristics of the new variety of Verbena plant named 'Sunmarivani' are as follows.

Plant:

Growth habit. -- Decumbent.

Plant width. -- Approximately 60-80 cm.

Plant height. -- Approximately 10-20 cm.

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Stem:

Diameter. -- Approximately 3.5-4.0 mm.

Anthocyanin pigmentation. -- Absent.

Pubescence. -- Moderate.

5 Prickles. -- Absent.

Branching. -- Abundant.

Subterranean stem. -- Absent.

Length of internode. -- Approximately 3.5-4.5 cm.

Leaf:

10 Phyllotaxis. -- Opposite.

Shape of blade. -- Hastate.

Apex shape. -- Obtuse.

Base shape. -- Truncate.

Margin. -- Sharply Serrated.

15 Length. -- Approximately 4.0-5.0 cm.

Width. -- Approximately 3.0-4.0 cm.

Color. -- Upper side: Near R.H.S. 137A (grayish olive green); Lower side:
near R.H.S. 144A (strong yellow green).

Pubescence. -- Sparse.

20 Petiole. -- Absent.

Flower:

Shape of cluster. -- Obconical.

Cluster length. -- Approximately 3.5-5.0 cm.

Cluster diameter. -- Approximately 5.5-6.5 cm.

25 Facing direction. -- Upward.

Floret diameter. -- Approximately 1.5-2.0 cm.

Floret length. -- Approximately 1.5-2.0 cm.

Color of petal. -- Upper side: near R.H.S. 155B (yellowish white).; Lower
side: near R.H.S. 156C (yellowish white).

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Eye color. -- Absent.

Variegation. -- Absent.

Petal apex. -- Emarginated.

Number of petals. -- Generally 5.

5 Calyx length. -- Approximately 1.0-1.5 cm.

Calyx shape. -- Tubular. Sepals ~~haveing~~ have an acute apex ~~in~~ and are fused at the base.

Reproductive organs. -- 1 pistil and 4 stamens.

Pistil shape. -- Bifid.

10 Anther color. -- Near R.H.S. 1B (yellow green).

Filament color. -- Near R.H.S. 1B (yellow green).

Pollen. -- Present in a moderate quantity, color near R.H.S. 155B.

Stigma color. -- Near R.H.S. 4D (pale yellow green).

Style color. -- Near R.H.S. 144B (vivid yellow green).

15 Ovaries. -- Commonly four in number.

Peduncle diameter. -- Approximately 1.0-2.0 mm.

Peduncle length. -- Approximately 7.0-9.0 cm.

Peduncle color. -- Near R.H.S. 137C (Moderate yellow green).

Number of flowers per spike. -- Approximately 17.

20 Flowering period. -- April to November in the southern Kanto area, Japan.

The plant shape does not change throughout this period. A typical flower commonly lasts 5 to 7 days on the plant when experiencing a temperature of approximately 20°C.

Fruit and seed. -- Fruit and seed production has not been observed

25 Physiological and ecological characteristics:

~~Tolerance to cold. -- High.~~

~~Tolerance to heat. -- High.~~

~~Resistance to disease. -- High.~~

~~Resistance to pests. -- High.~~

SUBSTITUTE SPECIFICATION
(MARKED UP COPY)

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- Winter Hardiness. -- USDA Hardiness Zone 4-9 (Grown as perennial).
- Heat tolerance. -- The plant grows well at temperature up to at least 35°C.
- Disease and pest resistance. -- Resistant to powdery mildew. No serious damage by pathogen and pests common to Verbena has been observed.

SUBSTITUTE SPECIFICATION
(MARKED UP COPY)

52231/CAB/A400

It is claimed:

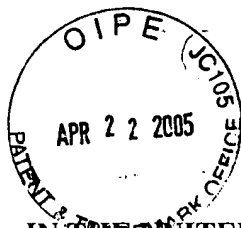
A new and distinct variety of Verbena plant named 'Sunmarivani',
substantially as herein illustrated and described.

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VERBENA PLANT NAMED 'SUNMARIVANI'

ABSTRACT OF THE DISCLOSURE

Disclosed herein is a new and distinct variety of Verbena plant having a decumbent growth habit. The Verbena plant has abundant branching, the whole
5 plant remaining in bloom for a considerable period of time. The flowers are formed in profusion in a spike and the petals display a yellowish white color. The blooming period is from April to November, and the flowering duration is long. The plant exhibits high tolerance to heat and high resistance to rain, pests and disease, particularly powdery mildew.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 12, 2004.


Diane L. Goss

Applicant : Yasunori Yomo
Application No. : 10/814,623
Filed : March 30, 2004
Title : VERBENA PLANT NAMED 'SUNMARIVANT'

COPY

Grp./Div. : 1661
Examiner : To be determined
Docket No. : 52231/DBP/A400

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
37 CFR § 1.97(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
August 12, 2004

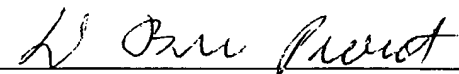
Commissioner:

In compliance with the duty of disclosure under 37 CFR §§ 1.56, 1.97 and 1.98, and in accordance with the provisions in the Manual of Patent Examining Procedure §§ 609 and 707.05(b), enclosed is FORM PTO/SB/08A/B listing the references that are known to applicant. Copies of each of the listed references are enclosed. This filing is timely because it is made during one of the periods described in 37 CFR § 1.97(b).

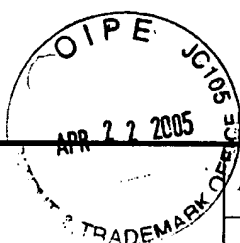
It is respectfully requested that the listed references be considered in the examination of this application and identified on the list of references cited on the patent issuing for this application. Applicant also requests that an initialed copy of FORM PTO/SB/08A/B be entered in the application file and returned to applicant with the next communication from the Office in accordance with MPEP § 609.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 
D. Bruce Prout
Reg. No. 20,958
626/795-9900

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Enclosures: PTO/SB/08A/B, w/references
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FORM PTO/SB/08A/B (10-01)
Substitute for PTO-1449A/B

INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

(use as many sheets as necessary)

Attorney Docket Number	52231/DBP/A400
Application Number	10/814,623
Filing Date	March 30, 2004
Applicant(s)	Yasunori Yomo
Group Art Unit	1661
Examiner Name	To be determined

U.S. PATENT DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	DOCUMENT NUMBER Number - Kind Code ² (If Known)	PUBLICATION DATE MM-DD-YYYY	NAME OF PATENTEE

FOREIGN PATENT DOCUMENTS

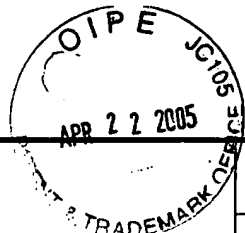
EXAMINER INITIALS	Cite No. ¹	Foreign Patent Document Country Code ³ - Number ⁴ - Kind Code ⁵ (If Known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T ⁶ (✓)
		Japan PBR 6630	07-17-1998	Nagase, Y.	English translation; Corresponds to U.S. Plant Patent 10,801 previously filed
		Japan PBR 8585	12-22-2000	Yomo, Y.	✓

OTHER DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article, title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
		Flower & Green Catalog 2004, Suntory Flowers, Ltd., (4 pp), Published 2003, with brief English explanation and partial translation of page 12
		The 2004 Suntory Collection, Jackson & Perkins Wholesale, Inc., (2 pp), Published 2003 with brief English translation..
		Pineae Peak Performers featuring the 2004 Suntory Collection, Pineae Greenhouses, Inc., (3 pp), Published 2003 with brief English translation.

EXAMINER SIGNATURE		DATE CONSIDERED	
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.pto.gov or MPEP 901.4. ³ Enter Office that issued the document, by the two-letter code (WIPO standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English Language Translation is attached.			

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE



FORM PTO/SB/08A/B (10-01)
Substitute for PTO-1449A/B

INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

(use as many sheets as necessary)

Attorney Docket Number	52231/DBP/A400
Application Number	10/814,623
Filing Date	March 30, 2004
Applicant(s)	Yasunori Yomo
Group Art Unit	1661
Examiner Name	To be determined

OTHER DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article, title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
		Suntory Collection 2004, Moerheim New Plant bv, (5 pp), Published 2003 with brief English translation.
		Colour Wave Collection 2003-04, Ramm Botanicals Pty Ltd., (3 pp), Published 2002 with brief English translation.
		Explanation of Publications of Japanese PBR Registrations and family documents therein.

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EXAMINER SIGNATURE		DATE CONSIDERED	
<small>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.pto.gov or MPEP 901.4. ³Enter Office that issued the document, by the two-letter code (WIPO standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶Applicant is to place a check mark here if English Language Translation is attached.</small>			

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

DBP/dg



Explanations for IDS Documents

Name of Document

"FLOWER & GREEN, the newest catalog 2004"

Published in 2003 by Suntory Flowers Ltd., obtained on October 10, 2003, at Suntory Flowers Ltd.

This catalog is for sales of plants in Japan including photos of flowers, explanations of flower colors, trade names 'Hanatemari® Creeping Type Violet' and 'Hanatemari® Creeping Type White', and the variety denominations of the control varieties 'Sunmariba' and 'Sunmaririho' of the present variety on page 12.

Name of Document

"THE 2004 SUNTORY COLLECTION"

Published in 2003 by Jackson & Perkins Wholesale, Inc. (Medford OH, USA), obtained on July 15, 2003 at the exhibition at Columbus OH, USA.

This catalog is for sales of plants in the US including photos of flowers and the trade names 'Temari Violet' and 'Temari White' of the control varieties 'Sunmariba' and 'Sunmaririho' of the present variety on page 11.

The variety denominations thereof are not disclosed in this catalog.

Name of Document

"Pineae Peak Performers featuring the 2004 Suntory COLLECTION"

Published in 2003 by Pineae Greenhouses, Inc. (Centerville UT, USA), obtained on July 15, 2003 at the exhibition at Columbus OH, USA.

This catalog is for sales of plants in the US including

photos of flowers and the trade names 'TEMARI® Violet' and 'TEMARI® White' of the control varieties 'Sunmariba' and 'Sunmaririho' of the present variety on page 10.

The variety denominations thereof are not disclosed in this catalog.

Name of Document

"Suntory Collection 2004"

Published by Moerheim New Plant bv in 2003, obtained at Moerheim New Plant bv on September 16, 2003.

This catalog for sales in Europe includes photos of flowers, the trade names 'TEMARI® Violet' and 'TEMARI® White' and the variety denominations 'Sunmariba' and 'Sunmaririho' of the control varieties of the present variety on pages 60 and 59, respectively.

This catalog also includes a photo of flowers, the trade name 'TEMARI® Vanilla' and the variety denomination 'Sunmarivani' of the present variety on page 48.

Name of Document

"Colour Wave Collection 2003-04"

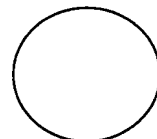
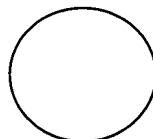
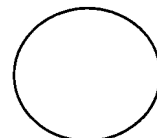
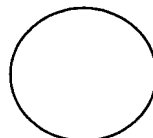
Published in 2002 by Ramm Botanicals Pty Ltd.

Obtained at Ramm Botanicals Pty Ltd. on September 15, 2002

This catalog for sales in Oceania includes photos of flowers, the trade names 'KAZARI® Violet Surprise' and 'KAZARI® White Sensation' and variety denominations of the control varieties 'Sunmariba' and 'Sunmaririho' of the present variety.

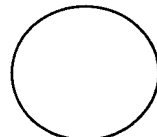
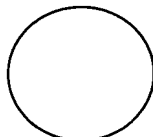
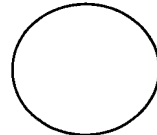
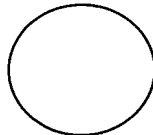
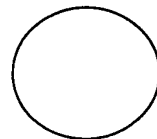
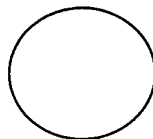
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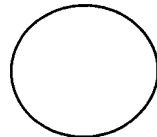
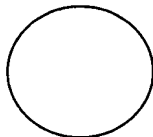
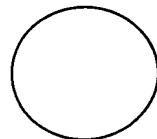
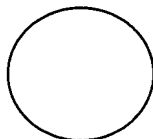


White
Var. Sunmaririho
Clear vivid
white

Violet
Var. Sunmariba
Slightly reddish
deep purple



<Upright Types>



* "Hanatemari®" is a registered trademark by Suntory Flowers
Ltd.